IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 255 of 2002 (M/B)

Anil Mungali
S/o Late Sri Bhuwan Chandra Mungali,
R/o Bhawani Ganj, Haldwani,
District Nainital. ……. Petitioner

Versus

1. Collector / District Magistrate,
   Nainital.
2. Collector / District Magistrate,
   Bageshwar.
3. Prescribed Authority,
   Regulated Area, Kausani Lawesal,
   District Bageshwar.
4. Uttar Pradesh Financial Corporation,
   through its Managing Director,
   Head Office, Kanpur.
5. Regional Manager,
   Uttar Pradesh Financial Corporation,
   Regional Office, Haldwani,
   District Nainital.
6. Tehsildar, Haldwani,
   District Nainital.
7. State of Uttaranchal,
   through Secretary, Revenue Department,
   Uttaranchal Shasan, Dehradun. …… Respondents

Mr. Manoj Tewari, Advocate for the petitioner.
Mr. N.C. Gupta, Standing Counsel for the State of Uttaranchal.
Mr. Naresh Pant, Advocate for respondents Nos. 4 and 5.

JUDGMENT

Coram: Hon. Rajeev Gupta, C.J.
Hon. M.M. Ghildiyal, J.

RAJEEV GUPTA, C.J. (Oral)

Mr. Manoj Tewari, Advocate for the petitioner.

Mr. N.C. Gupta, Standing Counsel for respondents Nos. 1, 2, 3, 6 and 7.

Mr. Naresh Pant, Advocate for respondents Nos. 4 and 5.

2. The petitioner has filed this writ petition for the following reliefs:

> "A. To issue a writ order or direction in the nature of mandamus for quashing the Recovery Certificate

dated Nil issued by the Respondent No. 4 (Annexure-8) and the Citation (Annexure-9) dated 9.5.2002 issued in pursuance thereof by the Respondent No. 6.

B. To issue a writ order or direction in the nature of mandamus commanding the Respondent No. 2 and 3 to grant sanction to the Petitioner for construction of Hotel by ignoring the orders dated 16.3.1994 and 23.3.1992 passed by them in the light of the fact that sanction was earlier granted to the predecessor-in-title of the Petitioner for construction of a much bigger Hotel over the same plot.

C. To issue a writ order or direction in the nature of mandamus commanding the Respondent No. 7 to hold a high level inquiry into the acts of omission and commission by the concerned Government Officers due to which the Hotel project of the Petitioner had to be stopped mid way which was not only prejudicial to the interest of the Petitioner but also prejudicial to the public interest.

D. To issue a writ order or direction in the nature of mandamus commanding the Respondent No. 4 to re-schedule the term loan after waiving the interest accumulated thereupon so as to enable the Petitioner to complete / commission the Hotel project.

E. To issue any other suitable writ order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of case.

F. To award the cost of the writ petition in favour of the Petitioner."

3. While granting stay of recovery proceedings against the petitioner vide order dated 08.07.2002, the petitioner was directed to deposit a sum of Rs. 10,00,000/- (Rupees Ten Lakhs only) in the Court. Admittedly, the petitioner has not complied with the above direction.

4. During the course of hearing, it further transpired that the petitioner has already submitted his proposal for One Time Settlement to respondents Nos. 4 and 5 though the learned counsel for respondents Nos. 4 and 5 submits that the petitioner has not deposited the requisite amount which is a condition precedent for a acceptance of the One Time Settlement.

5. In this view of the matter, the writ petition is disposed of leaving it open to the petitioner to pursue his offer for One Time

Settlement, if the same is permissible under the relevant provisions of law and the Rules, Regulations and the Schemes.

(M.M. Ghildiyal, J.) **(Rajeev Gupta, C.J.)**
21.03.2006 **21.03.2006**

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